

# IDENTIFYING LABOR TRAFFICKING

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# Overview



- History of Labor Trafficking
- Definitions
- What, Who and How: Case Examples
- Barriers to Identification
- Improving Response to Labor Trafficking

# BRIEF History of Statutory Foundation of Labor Trafficking

*Slavery, indentured servitude, , involuntary servitude,  
debt bondage, peonage, labor trafficking, forced labor*

13<sup>th</sup> Amendment & Emancipation Proclamation  
(1863/1865) ---→ US v. Kozminski (1988) ----→  
Trafficking Victim Protection Act (2000)

# Federal Criminal Definitions

## Forced Labor, 18 USC Sec. 1589

(a) Whoever knowingly provides or obtains the labor or services of a person by any one of, or by any combination of, the following means— (1) by means of force, threats of force, physical restraint, or threats of physical restraint to that person or another person; (2) by means of serious harm or threats of serious harm to that person or another person; (3) by means of the abuse or threatened abuse of law or legal process; or (4) by means of any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint...

## Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor 18 USC Sec. 1590

Whoever knowingly recruits, harbors, transports, provides, or obtains by any means, any person for labor or services in violation of this chapter shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse, or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

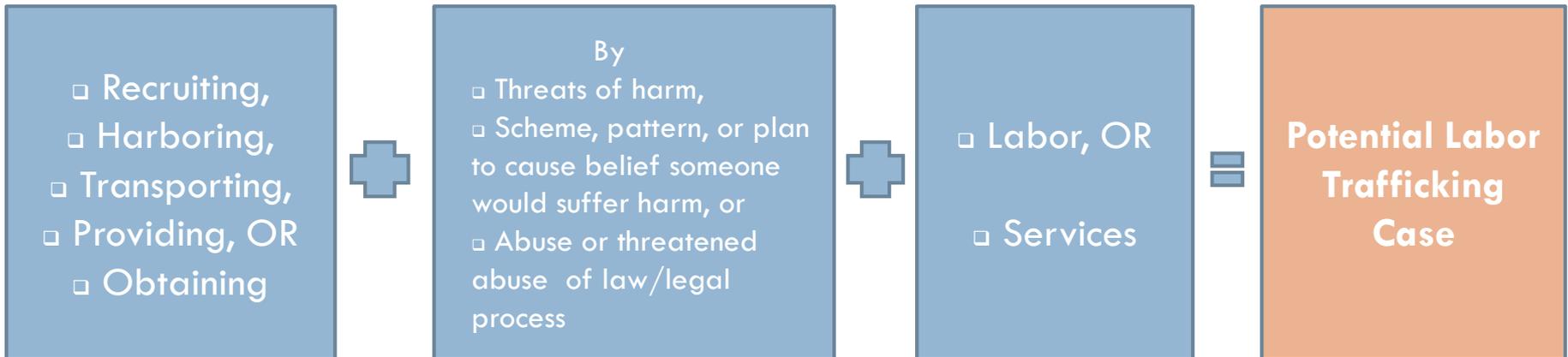
Other crimes/remedies:

18 U.S.C. §371,

18 U.S.C. §1594

# Federal Criminal Definitions

## Forced Labor, 18 USC Sec. 1589



# Types of Labor Trafficking

- Hotel
- Construction
- Cleaning Services
- “Care” work – nanny, maid, elder care
- Agriculture
- Factories
- Restaurants
- Begging
- Carnivals
- Resorts
- Dancing/strip clubs

## HOW

- Employment and Recruitment Agencies
- Newspaper ads
- Word of mouth
- Family or friend referral
- Legal status



**I AM DEAF**



*Selling Key Chains for*



**\$1.00**



**SMILE**

*These items  
are for a living*

**GOD BLESS YOU AND THANK YOU**

# US v Calimlim (2008)

- Defendants charged with involuntary servitude,
- 19 year old Philippine national recruited as live-in housekeeper in suburbs outside of Milwaukee, WI
- Daily routine usually began at 6:00 a.m. and ended around 10:00 p.m., seven days a week as well as during most vacations.
- Duties initially included caring for the Calimlim household and children; eventually they expanded to include the family cars, investment properties, and medical offices; later a 8,600 sq. foot area, including tennis courts
- Never allowed to answer front door, go outside (front of house)
- Coercion relied on false information about immigration status, pay, false and fraudulent statements, isolation, among others, visa fraud.

# US v. Mishulovich (2002)

- Involuntary servitude, visa fraud, and peonage
- Mishulovich recruited young women from Latvia to be dancers with false promises
- Forced to dance in strip clubs and earn quota to hand over to Mishulovich and co-conspirators
- Mishulovich kept the women from leaving through tactics including confiscation of documents, physical violence, threats and threats against family members. They initially lived in one apartment in Chicago, under strict restrictions.

# David v. Signal International (February, 2015)

- Civil suit – federal jury awarded \$14 million in compensatory and punitive damages
- Potentially largest labor trafficking case in recent history
- In aftermath of Hurricane Katrina, Signal used H2B guest worker program to import nearly 500 men from India to work as welders, pipefitters, and other positions
- Workers promised jobs and green cards in exchange for paying exorbitant recruitment and “finder” fees between \$10-20K
- Poor conditions at labor camps, high debts, discriminatory and disparaging treatment, threats, abuse of legal process, fraud, labor exploitation



A scene from the "man camp" where workers were crowded into trailers. (Southern Poverty Law Center)

# Child Peddling – Orlando, FL (2013)

- Forced labor
- 24 Orlando children younger than 18 were crammed into back of van and driven around to sell cheap items and candy bars door to door and outside of gas stations
- 10 hour days
- Luring children and young adults with promises of an honest wage, transporting to unsafe conditions, and sending off to conduct unsupervised work in unfamiliar neighborhoods
- Food and water was rationed
- Abuse and neglect charges filed.

<http://www.floridatoday.com/article/20131029/NEWS01/310290024/children-human-trafficking>; <http://www.wfla.com/story/24776634/fla-kids-corralled-to-sell-candy>



# “Boys in the Bunkhouse” – Iowa

- For more than 30 years, a dozen men with intellectual disabilities — affecting their reasoning and learning — lived in Atalissa, Iowa in a home
- Worked in turkey processing plant, eviscerating turkeys, in return for food, lodging, the occasional diversion and paltry \$65 a month.
- Severe neglect, abuse, malnourishment
- **For more than 30 years.** Recruited as wards of state or institutions at young age.
- In 2013, the case led to the largest jury verdict in the history of the Equal Employment Opportunity Commission: \$240 million in damages.

# “Sarah” – Chicago, IL

- Forced labor, involuntary servitude
- Came to US at 10 yrs old from Western Africa
- Forced to perform household cleaning, child care, and other duties
- Not allowed to attend school or communicate with outsiders for four years
- Coerced via fraud, trickery, lies about mother, sexual assault/abuse, physical assault/abuse
- Ran away and became victim of sexual assault and commercial sexual activity

# Vietnamese Children & Cannabis Trade, United Kingdom (2011)

- Forced labor, debt bondage
- Vietnamese children and teenagers were being transported across the world for use as slave labor in the farms producing cannabis
- Boys and girls - mostly 13-16 forced to work as 'gardeners' for criminal gangs, trapped inside the buildings, 24 hours a day, tending and watering the plants behind blacked-out windows with no ventilation
- Eating, sleeping and working under heat lamps and exposed daily to toxic chemicals
- Threats against children and their families
- Were being arrested and processed as criminal actors during raids under drug charges.
- UK Higher Court recognized this as child labor trafficking in 2011

<http://www.aljazeera.com/programmes/peopleandpower/2011/07/201172795838377646.html>;  
<http://www.bbc.com/news/uk-22999230>



"They were prosecuted, convicted, and punished by imprisonment for the very crimes that their traffickers forced them to commit or they were compelled to commit as a result of the trafficking."

*Address the right for victims of trafficking to not be prosecuted for involvement in criminal activities.*



# Barriers to Identification

# Big Picture Themes – Barriers to Identification

- Lack of awareness and outreach
- Lack of prioritization by first responders
- Fear of victims to come forward

# MYTH



**Human Trafficking = Sex Trafficking**

# MYTH



**“Only foreign nationals are trafficked for labor.”**

# SAYING IT ISN'T SO...

## **“Labor Trafficking Doesn't Happen in/at:**

- ❑ Our Community
- ❑ Agency
- ❑ Department
- ❑ District
- ❑ Etc.



**“Hidden in Plain Sight.”**

# RATIONALIZATON



**“They are still getting paid more/treated better than they would be in their home country.”**

**FALSE**



**“More prosecutions of sex trafficking means more sex trafficking is occurring in our communities.”**

# **Lack of Training & Clarity**



**Force, Fraud, Coercion vs.  
Labor exploitation**

# Children

## “Consent” and Smuggling vs. trafficking

- Undocumented children can be charged a fee or debt for their passage and often add on exorbitant fees and interest. Faced with debt bondage, these children are relegated to working to pay off these debts or their
- Children do not have legal capacity to make these types of agreements, and may qualify as trafficking victims.

# Improving Identification and Response to Labor Trafficking

- Training and capacity building needs to include labor trafficking
  - ▣ Women, men, boys, and girls are trafficked for labor and sex in the US
  - ▣ Labor investigators, state and local regulators, first responders, truancy officers, hospital workers, educators, workers rights centers
- New partners – coalitions, task forces

# Improving Identification and Response to Labor Trafficking

- Support policies that treat *all* victims/survivors of human trafficking equally
- For child labor trafficking survivors, child welfare planning should include tailored plans that take into consideration the child's family circumstances, abusive home environments, need to support family and generate income, and education and work plans.

# Improving Outcomes for Labor Trafficking Cases

- Wages, Taxes, and Benefits (DOL, IRS)
- ICE Visa Fraud
- EEOC
- Civil litigators/remedies
- Look at other related criminal statutes, child welfare statutes (children), torts, and penalties
  - ▣ Debt bondage, peonage, document servitude, visa fraud, negligence, intentional harm, abuse/neglect
  - ▣ Fair Labor Standards Act, Child Labor Laws, OSHA, etc.
- Detailed victim impact statements outlining financial, emotional, and physical harm and long term consequences

# If you have any of these in your community, recommend building capacity to identify and respond to potential labor trafficking cases

- Hotel
- Construction
- Cleaning Services
- “Care” work – nanny, maid, elder care
- Agriculture - small and large scale farms/operations
- Construction
- Factories
- Begging
- Carnivals
- Hospitality, Restaurants, Resorts
- Dancing/strip clubs

# Resources

- [Hidden in Plain Sight](http://www.urban.org/UploadedPDF/413249-Labor-Trafficking-in-the-United-States.pdf), Understanding the Organization, Operation, and Victimization Process of Labor Trafficking in the United States, <http://www.urban.org/UploadedPDF/413249-Labor-Trafficking-in-the-United-States.pdf>
- [Child Labor Trafficking Fact Sheet, Freedom Network USA](http://freedomnetworkusa.org/tag/child-trafficking/) <http://freedomnetworkusa.org/tag/child-trafficking/>
- Promising Criminal Justice Practices in Criminal Justice Cases (2005-2010): [http://www.luc.edu/media/lucedu/chrc/pdfs/Trafficking\\_County\\_Report.pdf](http://www.luc.edu/media/lucedu/chrc/pdfs/Trafficking_County_Report.pdf)
- Civil Remedies on Behalf of Trafficked Persons. [http://www.splcenter.org/sites/default/files/downloads/splc\\_human\\_trafficking.pdf](http://www.splcenter.org/sites/default/files/downloads/splc_human_trafficking.pdf)
- Dept. of Labor <http://www.dol.gov/dol/fact-sheet/immigration/u-t-visa.htm>
- Dept. of Health & Human Services Fact Sheet <http://www.acf.hhs.gov/programs/orr/resource/fact-sheet-labor-trafficking-english>



Thank you!

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